

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 07-220
Table of Allotments,	)	RM-11403
FM Broadcast Stations.	)	
(Ash Fork and Paulden, Arizona)	)	

**NOTICE OF PROPOSED RULE MAKING**

**Adopted: October 17, 2007****Released: October 19, 2007****Comment Date: December 10, 2007****Reply Date: December 26, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Petition for Rule Making filed by Sierra H Broadcasting, Inc. ("Petitioner"), proposing to amend the FM Table of Allotments as part of a contingently filed "hybrid" application and rulemaking petition.<sup>1</sup> Petitioner, licensee of FM Station KNRJ, Channel 266C1, Payson, Arizona, filed an FCC Form 301 application proposing the modification of KNRJ's allotment reference site, a change of the station's community of license from Payson to Cordes Lakes, Arizona, and an upgrade to Channel 266C.<sup>2</sup> Cordes Lakes is a Census Designated Place of 2,058 persons, and allotment of Channel 266C at Cordes Lakes would provide that community with its first local transmission service.

2. In order to accommodate the allotment of Channel 266C at Cordes Lakes, Petitioner proposes channel substitutions for two vacant allotments, specifically the substitution of Channel 259A for vacant Channel 267A at Ash Fork, Arizona,<sup>3</sup> and the substitution of Channel 228C3 for vacant Channel 263C3 at Paulden, Arizona.<sup>4</sup> Neither the Ash Fork vacant allotment on FM Channel 267A nor the Paulden vacant allotment on Channel 263C3 has been designated for auction.

3. A final accommodation for FM Station KNRJ's proposed change of community may be accomplished through grant of a contingently filed application to move FM Station KRRK, Channel 266C0,

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<sup>1</sup> See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (2006).

<sup>2</sup> See File No. BPH-20070330BLN. The proposed reference coordinates for Channel 266C at Cordes Lakes, Arizona, are 34-14-03 NL and 112-21-58 WL.

<sup>3</sup> Petitioner proposes the existing reference coordinates of 35-16-13 NL and 112-32-31 WL, with a site restriction of 7.4 km (4.6 miles) northwest of Ash Fork.

<sup>4</sup> The proposed reference coordinates are 34-52-16 NL and 112-33-00, with a site restriction of 7.7 km (4.8 miles) west of Paulden.

from Lake Havasu, Arizona, to Desert Hills, Arizona.<sup>5</sup> That application, filed contemporaneously with the instant rulemaking petition, was accepted for filing and is awaiting Mexican concurrence. With that change of community, and the channel substitutions under consideration in this proceeding, Channel 266C at Cordes Lake would be fully-spaced in compliance with the Commission's rules.

4. The proposed allotments can be made with the site restrictions and reference coordinates indicated below.<sup>6</sup> Accordingly, we seek comment on amendment of the FM Table of Allotments, 47 C.F.R. Section 73.202(b), as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Ash Fork, Arizona	267A	259A
Paulden, Arizona	263C3	228C3

**Proposed Coordinates for Channel 259A at Ash Fork, Arizona:** 35-16-13NL and 112-32-31 WL, with a site restriction of 7.4 km (4.6 miles) northwest of Ash Fork.

**Proposed Coordinates for Channel 228C3 at Paulden, Arizona:** 34-52-16 NL and 112-33-00 WL, with a site restriction of 7.7 km (4.8 miles) west of Paulden.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached *Appendix* and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required to allot these channels.

6. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules,<sup>7</sup> interested parties may file comments on or before December 10, 2007, and reply comments on or before December 26, 2007, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on counsel for Petitioner, as follows:

<sup>5</sup> See File No. BPH-20070330BLP. Smoke and Mirrors, LLC, the owner of FM Station KRRK, Channel 266C0, Lake Havasu, Arizona, has consented to the change of community. The proposed reference coordinates for Channel 266C0 at Desert Hills, Arizona, are 34-32-43 NL and 114-11-17 WL.

<sup>6</sup> Concurrence by the Government of Mexico is required for the allotment of Channel 228C3 at Paulden, Arizona, because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. In addition, this allotment is dependent upon final implementation of a change of community for FM Station KADD, from Channel 228C1, Laughlin, Nevada, to Channel 228C at Logandale, Nevada. That change of community was approved in *Caliente, Bunkerville, Laughlin, Logandale, Nevada; Mohave, Arizona, and St. George, Utah*, Report and Order, 20 FCC Rcd 893 (MB 2004). Consistent with that decision, a construction permit was issued for Channel 228C at Logandale, Nevada (File No. BPH-20050124AIV), although FM Station KADD currently is licensed to operate on Channel 228C1 at Laughlin, Nevada.

<sup>7</sup> See 47 C.F.R. §§1.415 and 1.419.

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7. Parties must file an original and four paper copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Georgia Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. **All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.<sup>8</sup> This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.<sup>9</sup>

9. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202) 418-7072. For purposes of restricted notice and comment rule making proceedings, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in the particular

<sup>8</sup> See *Certification that Section 603 and 604 of the Regulatory Flexibility Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed.Reg. 11549 (February 9, 1981).

<sup>9</sup> See 44 U.S.C. 3506(c)(4).

docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the Petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in this proceeding.

## FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

## APPENDIX

1. Pursuant to authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the FM Table of Allotments, 47 C.F.R. Section 73.202(b), as set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments (*see* 47 C.F.R. Section 1.420(d).)

(b) Petitions for rule making which conflict with the proposals in this *Notice* will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; service. Pursuant to applicable procedures set out in 47 C.F.R. Sections 1.415 and 1.420, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioner. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments (*see* 47 C.F.R. Section 1.420(a), (b) and (c).) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of 47 C.F.R. Section 1.420, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.